

# RISK DISCLAIMER

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## RISK DISCLOSURE STATEMENT

This brief statement does not disclose all of the risks and other significant aspects of spot foreign currency and options trading on margin (collectively "Forex").

BECAUSE OF THE VOLATILE NATURE OF THE OFF-EXCHANGE FOREIGN CURRENCY MARKETS, THE PURCHASE AND SALE OF OFF-EXCHANGE FOREIGN CURRENCY INVOLVE A HIGH DEGREE OF RISK. OFF-EXCHANGE FOREIGN CURRENCY TRANSACTIONS ARE NOT SUITABLE FOR MANY MEMBERS OF THE PUBLIC. SUCH TRANSACTIONS SHOULD BE ENTERED INTO ONLY BY PERSONS WHO HAVE CAREFULLY CONSIDERED THE RISKS INVOLVED WITH THE TRADING OF OFF-EXCHANGE FOREIGN CURRENCIES. A PERSON SHOULD NOT PURCHASE OFF-EXCHANGE FOREIGN CURRENCIES UNLESS HE OR SHE IS PREPARED TO SUSTAIN A TOTAL LOSS OF THE PURCHASE PRICE. ALL INVESTORS SHOULD READ AND UNDERSTAND THE DISCLOSURE OF RISKS RELATING TO THE TRADING OF OFF-EXCHANGE FOREIGN CURRENCY TRANSACTIONS WHICH IS PROVIDED TO ALL INVESTORS IN CONNECTION WITH THE OPENING OF A TRADING ACCOUNT WITH AVA CAPITAL MARKETS AUSTRALIA PTY LTD ("AVA").

The high degree of leverage available can work against you as well as for you. Before deciding to invest in Forex you should carefully consider your investment objectives, level of experience, and risk appetite and other circumstances. The possibility exists that you could sustain a loss of some or all of your investment and therefore you should not invest money that you cannot afford to lose. You may be liable for losses that exceed the amount of margin that you post.

Trading in Forex is not suitable for many members of the public. You should carefully consider whether trading is appropriate for you in light of your experience, objectives, financial resources and other relevant circumstances. In light of the risks, you should undertake such transactions only if you (the "Customer") understand the nature of the trading into which you are about to engage and the extent of your exposure to risk.

### 1. TRADING IS VERY SPECULATIVE AND RISKY

Forex is highly speculative and is suitable only for those Customers who (a) understand and are willing to assume the economic, legal and other risks involved, and (b) are financially able to assume losses significantly in excess of margin or deposits. Forex is not an appropriate investment for retirement funds. Customer represents warrants and agrees that Customer understands these risks; that Customer is willing and able, financially and otherwise, to assume the risks of Forex and that loss of Customer's entire account balance will not change Customer's life style.

### 2. HIGH LEVERAGE AND LOW MARGIN CAN LEAD TO QUICK LOSSES.

- 2.1. The high leverage and low margin associated with Forex can result in significant losses due to price changes in Foreign Exchange Contracts and Cross Currency Contracts. The amount of initial margin may be small relative to the value of the foreign currency so that

# RISK DISCLAIMER

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transactions are "leveraged" or "geared". A relatively small market movement may have a proportionately larger impact on the funds you have deposited or will have to deposit: this may work against you as well as for you. You may sustain a total loss of initial margin funds and any additional funds deposited with the firm to maintain your position. If the market moves against your position or margin levels are increased, you may be called upon to pay substantial additional funds on short notice to maintain your position. If you fail to comply with a request for additional funds within the time prescribed, your position may be liquidated at a loss and you will be liable for any resulting deficit. Customers must maintain the minimum margin requirement on their open positions at all times. It is the customer's responsibility to monitor his/her account balance. We have the right to liquidate any or all open positions whenever the minimum margin requirement is not maintained.

- 2.2. The high degree of leverage that is obtainable in the trading of off-exchange foreign currency transactions can work against you as well as for you. Leverage can lead to large losses as well as gains.

## 3. RISK-REDUCING ORDERS OR STRATEGIES

The placing of certain orders (e.g., "stop-loss" orders, where permitted under local law, or "stop-limit" orders), which are intended to limit losses to certain amounts, may not be effective because market conditions may make it impossible to execute such orders. Strategies using combinations of positions, such as "spread" and "straddle" positions, may be as risky as taking simple "long" or "short" positions.

## 4. OPTIONS - VARIABLE DEGREE OF RISK

- 4.1. Transactions in foreign currency options carry a high degree of risk. Purchasers and sellers of foreign currency options should familiarize themselves with the type of option (i.e., put or call) which they contemplate trading and the associated risks. You should calculate the extent to which the value of the options must increase for your position to become profitable, taking into account the premium and all transaction costs.
- 4.2. The purchaser of options may offset or exercise the options or allow the options to expire depending on the nature and type of option purchased. The exercise of an option will always result in a cash settlement. In some instances, the purchaser may acquire a spot position with associated liabilities for margin. If the purchased options expire worthless, you will suffer a total loss of your investment, which will consist of the option premium plus transaction costs. If you are contemplating purchasing deep-out-of-the-money options, you should be aware that the chance of such options becoming profitable ordinarily is remote. Selling ("writing" or "granting") an option generally entails considerably greater risk than purchasing options. Although the premium received by the seller is fixed, the seller may sustain a loss well in excess of that amount. The seller will be liable for additional margin to maintain the position if the market moves unfavorably. The seller will also be exposed to the

## RISK DISCLAIMER

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risk of the purchaser exercising the option and the seller will be obligated to either settle the option in cash or to acquire or deliver the underlying interest. In some instances, the seller may acquire a spot position with associated liabilities for margin. If the option is "covered" by the seller holding a corresponding position in the underlying currency or another option, the risk may be reduced. If the option is not covered, the risk of loss can be unlimited. The purchaser is still subject to the risk of losing the premium and transaction costs. When the option is exercised or expires, the purchaser is responsible for any unpaid premium outstanding at that time.

### **5. PRICES, MARGIN AND VALUATIONS ARE SET BY US AND MAY BE DIFFERENT FROM PRICES REPORTED ELSEWHERE**

AVA will provide prices to be used in trading, valuation of Customer positions and determination of margin requirements. Prices reported by us may vary from prices available to banks and other participants in what is known as the interbank market. AVA will exercise considerable discretion in setting and collecting margin. AVA are authorized to convert funds in Customer's account for margin into and from such foreign currency at a rate of exchange determined by us in our sole discretion on the basis of then-prevailing money market rates.

### **6. ONE CLICK TRADING AND IMMEDIATE EXECUTION**

AVA offers also on our automated order entry system immediate transmission of Customer's order once Customer enters the notional amount and clicks "Buy/Sell." There is no "second look" before transmission, and Market Orders cannot be cancelled. This feature may be different from other trading systems. Customer agrees that by using our order-entry system, Customer agrees to the one-click system and accepts the risk of this immediate transmission feature.

### **7. TELEPHONE ORDERS AND IMMEDIATE EXECUTION**

Market Orders executed through our Trading Desk are completed when AVA says "deal" or "done." At that point Customer has bought or sold and cannot cancel the Market Order. By placing Market Orders through our Trading Desk, Customer agrees to such immediate execution and accepts the risk of this immediate execution feature

## RISK DISCLAIMER

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### **8. MARKET RECOMMENDATIONS ARE INFORMATIONAL, CUSTOMER MAKES INDEPENDENT DECISIONS, AND WE ARE NOT AN ADVISER OR A FIDUCIARY TO CUSTOMER**

The market recommendations that we provide do not constitute an offer to buy or sell, or the solicitation of an offer to buy or sell, any Foreign Exchange Contracts or Cross Currency Contracts. Each decision by Customer to enter into a Contract or other transaction with us and each decision whether a Contract or other transaction is appropriate or proper for Customer is an independent decision by Customer. We are not acting as an advisor or serving as a fiduciary to Customer. Customer agrees that we have no fiduciary duty to Customer and no liability in connection with and is not responsible for any liabilities, claims, damages, costs and expenses, including attorneys' fees, incurred in connection with Customer following our trading recommendations or taking or not taking any action based upon any recommendation or information provided by us.

### **9. RECOMMENDATIONS ARE BASED ON PERSONAL JUDGMENTS AND ARE NOT GUARANTEED**

Our market recommendations are based solely on the judgment of our personnel. These market recommendations may or may not be consistent with the market positions or intentions of AVA Capital Markets Australia Pty Ltd, its affiliates and employees. Our market recommendations are based upon information believed to be reliable, but AVA cannot and do not guarantee the accuracy or completeness thereof or represent that following such recommendations will reduce or eliminate the risk inherent in Forex.

### **10. THERE IS NO CENTRAL MARKET OR CLEARINGHOUSE GUARANTEE OF PAYMENT**

Forex trading with AVA is not conducted on a regulated market or exchange. Each Contract is a contract directly between AVA and the Customer. There is no clearinghouse and no guarantee by any other party of our payment obligations to the Customer. Customer must look only to us for performance on all Contracts in Customer's account and for return of any margin or collateral. Our insolvency or a default by us could cause Customer to lose the value of its account and to suffer additional losses from open positions.

### **11. NO GUARANTEES OF PROFIT**

There are no guarantees of profit or freedom from loss in Forex. Customer has received no such guarantees from us or from any of our representatives. Customer is aware of the risks inherent in Forex and is financially able to bear such risks and withstand any losses incurred.

### **12. COMMISSION, CONVERSIONS AND OTHER CHARGES**

# RISK DISCLAIMER

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- 12.1. Before you begin to trade, you should obtain a clear explanation of all commission, fees and other charges for which you will be liable. You should be aware that profit and loss in foreign currency-denominated contracts (whether they are traded in your own or another jurisdiction) will be affected by fluctuations in currency rates where there is a need to convert from the currency denomination of the contract to another currency. These charges will affect your net profit (if any) or increase your loss.
- 12.2. AVA is compensated through the difference between the buy and sell price

## 13. TRANSACTIONS IN OTHER JURISDICTIONS

Transactions on markets in other jurisdictions, including markets formally linked to a domestic market, may expose you to additional risk. Such markets may be subject to regulation, which may offer different or diminished investor protection. Before you trade you should enquire about any rules relevant to your particular transactions. The Australian Securities and Investments Commission (“ASIC”) will be unable to compel the enforcement of the rules of regulatory authorities or markets in other jurisdictions where your transactions have been effected.

## 14. PASSWORD PROTECTION

You are obligated to keep passwords secret and ensure that third parties do not obtain access to your online account. You will be liable for trades executed by means of your password even if such use may be wrongful.

## 15. CUSTOMER MAY NOT BE ABLE TO CLOSE OPEN POSITIONS

Due to market conditions or other circumstances AVA may be unable to close out Customer’s position at the level specified by Customer, and Customer agrees that we will bear no liability for failure to do so.

## 16. TRADING AHEAD AND ALONG

Our personnel and affiliates and various other parties may execute orders at the same or better prices ahead of a Customer Order.

## 17. THIRD PARTY AGENTS

In the event that Customer grants trading authority or control over Customer’s account to a third party (the “Trading Agent”), whether on a discretionary or non-discretionary basis, AVA shall in no way be responsible for reviewing Customer’s choice of such Trading Agent or for making any recommendations with respect thereto. AVA makes no representations or warranties concerning any Trading Agent; AVA shall not be responsible for any loss to Customer occasioned by the actions of the Trading Agent; and AVA does not, by implication or otherwise, endorse or approve of the operating methods of the Trading Agent. If Customer gives the Trading Agent authority to exercise any of its rights over its account,

# RISK DISCLAIMER

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Customer does so at Customer's risk. Even though the undersigned grants authority to Trading Agent, Customer should be diligent and closely scrutinize all account activity.

## 18. INTERNET TRADING

There are risks associated with utilizing an Internet-based deal execution trading system including, but not limited to, the failure of hardware, software and Internet connection. Since AVA does not control signal power, its reception or routing via Internet, configuration of Customer's equipment or reliability of its connection, AVA shall not be liable for any claims, losses, damages, loss of profits, special or consequential damages, cost of procurement of substitute goods or services, costs or expenses, including attorneys' fees, caused, directly or indirectly, by any breakdown or failure of any transmission or communication system or computer facility or trading software, whether belonging to us, Customer, any market, or any settlement or clearing system when Customer trades online (via Internet). In addition, AVA is not responsible for the breach of any Internet security with respect to your Account. AVA has no liability or duty of indemnification related to unusable data, lost or corrupt Customer transactions or data, by whatever means, in whatever form, resulting in part or in whole from third-party software or networking goods or services or from internet related problems or from actions or events outside of our control.

## 19. TELEPHONE ORDERS

AVA is not responsible for disruption, failure or malfunction of telephone lines.

## 20. QUOTING ERRORS

Should a quoting error occur due to a mistype of a quote or a misquote given by telephone and/or electronic means (including responses to Customer requests), AVA is not liable for any resulting errors in account balances and reserve the right to make necessary corrections or adjustments on the account involved. Any dispute arising from such quoting errors will be resolved on the basis of the fair market value, as determined by us, in our sole discretion, of the relevant currency at the time such an error occurred. In cases where the prevailing market represents prices different from the prices AVA has posted on our screen, AVA will attempt, on a best efforts basis, to execute trades on or close to the prevailing market prices. These prevailing market prices will be the prices, which are ultimately reflected on the customer statements. This may or may not adversely affect customer realized and unrealized gains and losses.

## 21. CREDITOR PRIORITY IN BANKRUPTCY

You should familiarize yourself with the protections accorded money or other property you deposit for domestic and foreign transactions, particularly in the event of a firm insolvency or bankruptcy. The extent to which you may recover your money or property may be governed by specific legislation or local rules. In some, but not all, jurisdictions, property, which has been specifically identifiable as your own, will be pro-rated in the same manner as cash for purposes of distribution in the event of a shortfall.

## 22. LOCAL LAWS

# RISK DISCLAIMER

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This site is not intended for use by any person in any country where such use would be contrary to local law or regulation. It is the responsibility of visitors to this Web site to ascertain the terms of and comply with any local law or regulation to which they or the trades they undertake are subject.

## SECONDARY RISK DISCLOSURE: HIGH RISK INVESTMENT

In addition to standard industry disclosures contained in this Agreement, you should be aware that margined currency trading is one of the riskiest forms of investment available in the financial markets and is only suitable for sophisticated individuals and institutions. An account with AVA permits you to trade foreign currencies on a highly leveraged basis (up to approximately 200 times your account equity or as otherwise permitted by applicable regulation). An initial deposit of \$1,000 may enable the trader to take a maximum position with \$200,000 notional market value. The funds in an account trading at maximum leverage can be completely lost, if the position(s) held in the account has a two percent swing in value. Given the possibility of losing an entire investment, speculation in the foreign exchange market should only be conducted with risk capital funds that if lost will not significantly affect your personal or institution's financial well being.

If you have pursued only conservative forms of investment in the past, you may wish to study currency trading further before continuing an investment of this nature. You must realize that you could sustain a total loss of all funds you deposit with your broker as initial margin as well as substantial amounts of capital, when trading currencies or currency options, should the market go against your investment. You must also realize that the limited risk in buying options means you could lose the entire option investment should the option expire worthless. If you wish to continue with your investment, you acknowledge that the funds you have committed are purely risk capital and loss of your investment will not jeopardize your style of living nor will it detract from your future retirement program. Additionally, you fully understand the nature and risks of currency and currency options investments, and your obligations to others will not be neglected should you suffer investment losses.

### **Additional Risk Disclaimer**

Trading Forex on margin carries a high level of risk, and may not be suitable for all investors. By trading Forex you should be aware of all the risks associated with trading Ava Capital Markets Australia Pty Ltd ("AVA") products and read the [Product Disclosure Statement](#) and Terms & Conditions.